

SUPPLEMENTAL CONSULTANT AGREEMENT NO. 3

PROJECT: RECREATIONAL PATHWAYS EXPANSION PROJECT

N.Y.S.D.O.T. PROJECT NO. 5760.85

This Supplemental Agreement made this ___ day of _____ 201_, by and between The Town of Pendleton (hereinafter referred to as the "MUNICIPALITY"), and C&S Engineers, Inc. (hereinafter referred to as the "CONSULTANT").

WITNESSETH: The MUNICIPALITY and the CONSULTANT have entered into a Cost Plus Fixed Fee Consultant Agreement for Engineering Services, dated October 21, 2015, (the "Agreement"), for the undertaking of the above-titled project.

Further, the MUNICIPALITY and the CONSULTANT have entered into SUPPLEMENTAL CONSULTANT AGREEMENT NO. 1, dated April 11, 2017, for right-of-way services on the above-titled project, and SUPPLEMENTAL CONSULTANT AGREEMENT NO. 2, dated October 25, 2018, for construction inspection services.

The MUNICIPALITY and the CONSULTANT agree to further amend said Agreement with this SUPPLEMENTAL CONSULTANT AGREEMENT NO. 3 in accordance with the following amendments:

- AMENDMENT NO. 1:** The parties hereto agree that the maximum amount payable under the Agreement, including profit, be increased from \$150,000.00 to \$193,000.00.
- AMENDMENT NO. 2:** Attachment "A" hereto is added to and made part of the Agreement.
- AMENDMENT NO. 3:** Attachment "B" hereto is added to and made part of the Agreement.
- AMENDMENT NO. 4:** Attachment "C" Cost Plus Fixed Fee Method for Final Design and Construction Inspection Supplement to Agreement" hereto is added to and made part of this Agreement

Except as amended hereby, the Agreement and all terms and conditions contained therein between the MUNICIPALITY and CONSULTANT shall remain in full force and effect.

IN WITNESS WHEREOF, this Supplemental Consultant Agreement No. 3 has been executed by the MUNICIPALITY, acting by and through the Town of Pendleton, who has caused the seal of his office to be affixed hereto, and the CONSULTANT, by and through a duly authorized officer, has executed this Supplemental Consultant Agreement effective the day and year first above-written, subject to the approval of the New York State Department of Transportation.

MUNICIPALITY

CONSULTANT

Town of Pendleton

C&S Engineers, Inc.

By: _____

By: *Seth D. Kaeuper*
Seth D. Kaeuper, P.E.

Title: _____

Title: Regional Transportation Manager

Date: _____

Date: September 23, 2019

Attachment A
Architectural/ Engineering Consultant Agreement
Project Description and Funding
Consultant Design Services

PIN: 5760.85	<i>Term of Agreement</i>
BIN: N/A	<i>Ends: <u>December 31, 2019</u></i>
<input type="checkbox"/> Main Agreement <input type="checkbox"/> Amendment to Agreement <input checked="" type="checkbox"/> Supplement to Agreement	
<i>Phase of Project Consultant to work on:</i>	
<input type="checkbox"/> P.E./Design <input type="checkbox"/> ROW Incidentals <input type="checkbox"/> ROW Acquisition <input checked="" type="checkbox"/> Construction, C/I, & C/S	
Dates or term of Consultant Performance: Start Date: April 27, 2015 Finish Date: December 31, 2019	
<i>PROJECT DESCRIPTION:</i>	
This Agreement is for additional construction inspection services, as detailed in Attachment "B", for the construction of a recreational pathway along the former Conrail/ Erie Lackawanna railroad corridor in the Town of Pendleton, from Killian Road to Townline Road. The project involves the construction of approximately 1.06 miles of ten-foot wide ADA-compliant asphalt trail and bridge restoration to add to the Town's existing trail system. No ROW acquisitions or easements are anticipated.	
Project Location:	
Abandoned Conrail/ Erie Lackawanna Rail Corridor, Town of Pendleton, Erie County, NY	
Project Funding:	
Project Funding is a Locally Administered Federal Aid Project (80% federal, 15% state, 5% local)	
Project Classification:	
NEPA Class II Categorical Exclusion; SEQR Type II	
Consultant Work Type(s): See Attachment "B" for detailed Task List/Scope of Services.	

MAXIMUM AMOUNT OF FUNDS FOR ALL COMPENSATION PAYABLE UNDER THIS AGREEMENT FOR THE SCOPE OF WORK DESCRIBED IN ATTACHMENT B FOR THE PROJECT DESCRIBED IN THIS ATTACHMENT A, OTHERWISE IN ACCORDANCE WITH THE CHOSEN METHOD OF COMPENSATION AND OTHER TERMS OF THIS AGREEMENT:
\$43,000

ATTACHMENT B

**TASK LIST / SCOPE OF
SERVICES**

Attachment “B” SCOPE OF SERVICES

**C&S ENGINEERS, INC.
&
The Town of Pendleton**

This scope of services covers construction inspection services for construction of the Project set forth in the design documents prepared by C&S Engineers, Inc., for the Town of Pendleton, New York

NOTE: The scope of services is the same as the original Construction Inspection Agreement, except the amount of time needed to complete construction of the project has been increased to account for the actual time needed.

Section 9 - Construction Inspection

9.01 Equipment

The **Contractor** will furnish office space and basic office furnishings for the **Consultant**, as part of the contract for Project work.

The **Consultant** will furnish all other office, field, and field laboratory supplies and equipment required to perform properly the inspection services listed below.

9.02 Inspection

The **Consultant** must provide, to the satisfaction of the **Municipality**, contract administration and construction inspection services from such time as directed to proceed until the completion of the final agreement and issuance of final payment to the **Contractor** for the contract. The **Consultant** must assume responsibility, as appropriate, for the administration of the contract including maintaining complete Project records, processing payments, performing inspection work and on-site field tests of all materials and items of work incorporated into the Project consistent with federal policies and the specifications and plans applicable to the Project.

9.03 Municipal Project Engineer

The **Municipality** will assign a Project Engineer to the Project covered by this Agreement. This Project Engineer will be the **Municipality’s** official representative on the Project and the **Consultant** must report to and be directly responsible to said Project Engineer.

9.04 Ethics

Prior to the start of its services, the **Consultant** will submit to the **Municipality** a statement regarding conflicts of interest.

9.05 Health and Safety Requirements

The **Consultant** must provide all necessary health and safety related training, supervision, equipment, and programs for its staff assigned to the Project.

9.06 Staff Qualifications and Training

The **Consultant** must provide sufficient trained personnel to perform adequately and competently the requirements of this Agreement.

9.07 Scope of Services/Performance Requirements

1. Quality

The **Consultant** will enforce the Project Specifications and identify in a timely manner to the **Municipality** local conditions, methods of construction, errors on the plans, or defects in the work or materials which would conflict with the expected quality of work, and conflict with the successful completion of the Project.

2. Record Keeping & Payments to the **Contractor**

- All records must be kept in accordance with the directions of the **Municipality**. The **Consultant** must take all measurements and collect all other pertinent information necessary to prepare daily inspection reports, monthly and final estimates, survey notes, record plans showing changes from Contract Plans, photographs of various phases of construction, and other pertinent data, records, and reports for proper completion of records of the contract.
- Any record plans, engineering data, survey notes, or other data provided by the **Municipality** should be returned to the **Municipality** at the completion of the Project. Original tracings of record plans, maps, engineering data, the final estimate, and any other engineering data produced by the **Consultant** will bear the endorsement of the **Consultant**. Any documents that require an appropriate review and approval of a Professional Engineer (P.E.) licensed and registered to practice in New York State must be signed by the P.E.
- Unless otherwise modified by this agreement, the **Consultant** will check and, when acceptable, approve all structural shop drawings.
- Upon receipt of written concurrence from the **Contractor** of final quantities, and barring any disputed issues, the **Consultant** shall submit the final estimate of the contract to the **Municipality** within four (4) weeks of receipt of the written concurrence. All Project records must be cataloged, indexed, packaged, and delivered to the **Municipality** within four (4) weeks after the final estimate has been submitted.
- The **Consultant** shall provide **Municipality** with one set of full size record plans produced on mylar. In addition at the **Municipality's** request, the **Consultant** shall provide a record plan file on cd-rom.

- Health & Safety/Maintenance and Protection of Traffic
 - 1) The **Consultant** must ensure that all of its inspection staff assigned to the Project are knowledgeable concerning the health and safety requirements of the contract per **Municipality** policy, procedures, and specifications and that they adhere to those standards. Individual inspectors will be instructed relative to the safety concerns for construction operations they are assigned to inspect to protect their personal safety, and to ensure they are prepared to recognize and address any contractor oversight or disregard of Project safety requirements.
 - 2) The **Consultant** is responsible for monitoring the Contractor's and its Subcontractor's efforts to maintain traffic and protect the public from damage to person and property within the Project limits, and for the duration, of the contract.
- Monitoring Equal Opportunity/Labor Requirements

The **Consultant** will assign to one individual the responsibility for monitoring the **Contractor's** adherence to Equal Opportunity and Labor requirements contained in the Contract Documents. The **Consultant**, when monitoring the **Contractor's** Equal Opportunity and Labor compliance, will utilize the guidance contained in the Contract Documents, standard specifications, and the **Municipality's** policies.

Section 10 - Estimating & Technical Assumptions

10.01 Estimating Assumptions

The following assumptions have been made for estimating purposes:

Section 9 Estimate construction will begin on June 1, 2018 and project will be closed out by August 31, 2018. **Construction extended into the fall of 2018 and the summer of 2019 for an additional 2.5 months of construction time.**

Construction Materials Testing costs are ASSUMED costs only based on an assumed construction sequence. As the **Contractor** has control over means and methods, the number of tests required may increase over the assumed number of tests stated herein. Testing costs that exceed the ASSUMED costs stated herein will be covered under supplemental agreement.

10.02 Technical Assumptions

- Construction duration will be 3 months plus project closeout.

Staffing during active construction will be based on the following averages:

3 months of Resident Engineer/Senior Eng. Tech – 170 h/mo reg. time

An additional 2.5 months of construction time was required.

Costs for Construction Inspection Services during actual construction that are outside the above noted window will be borne by the **Contractor** and be paid through liquidated damages and/or agreement amendment supported by the **Municipality**.

- ALL record keeping will be according to MURK with the use of Appia Construction Administration Software, including materials approvals.
- The Construction Inspection Services will be performed to determine general conformity with the Contract Documents. The **Contractor** is ultimately and solely responsible for the quality and the timeliness of the constructed Project.
- A full-time Resident Engineer will be assigned by the **Consultant** for the duration of the Project.

ATTACHMENT C

FEE PROPOSAL

EXHIBIT A

Wage Rates

Recreational Pathways Expansion Project

P.I.N. 5760.85

Town of Pendleton

Construction Support/Construction Inspection Services

Job Title	Grade	Average Salary Rates		Maximum Hourly Rates			Overtime Category
		Certified Payroll Feb '18	Proj Midpoint June '18	2017	2018	2019	
Senior Principal	VIII (A)	\$65.96	\$68.60	\$115.40	\$120.02	\$124.82	A
Service Group Manager	VIII (A)	\$76.00	\$79.04	\$89.00	\$92.56	\$96.26	A
Department Manager	VI (A)	\$57.68	\$59.99	\$63.00	\$65.52	\$68.14	A
Chief Engineer	VII (A)	\$52.26	\$54.35	\$59.80	\$62.19	\$64.68	A
Managing Engineer	VI (A)	\$47.01	\$48.89	\$51.50	\$53.56	\$55.70	A
Managing Planner	VI (A)	\$52.00	\$54.08	\$52.00	\$54.08	\$56.24	A
Senior Project Planner	V (A)	\$41.00	\$42.64	\$41.00	\$42.64	\$44.35	B
Senior Project Engineer	V (A)	\$43.79	\$45.54	\$52.50	\$54.60	\$56.78	B
Project Engineer	IV (A)	\$36.37	\$37.82	\$40.50	\$42.12	\$43.80	B
Project Landscape Architect	IV (A)	\$37.00	\$38.48	\$37.00	\$38.48	\$40.02	B
Environmental Scientist	III (A)	\$29.25	\$30.42	\$30.00	\$31.20	\$32.45	B
Geologist	III (A)	\$30.50	\$31.72	\$30.50	\$31.72	\$32.99	B
Engineer	III (A)	\$30.40	\$31.62	\$35.00	\$36.40	\$37.86	B
Staff Engineer	I/II (A)	\$27.10	\$28.18	\$29.50	\$30.68	\$31.91	B
Senior Construction Supervisor	IV (N)	\$59.75	\$62.14	\$67.00	\$69.68	\$72.47	B
Construction Supervisor	IV (N)	\$39.00	\$40.56	\$39.00	\$40.56	\$42.18	B
Resident Engineer	IV (N)	\$41.00	\$42.64	\$41.00	\$42.64	\$44.35	B
Chief Inspector	III (N)	\$38.51	\$40.05	\$41.61	\$43.27	\$45.01	B
Senior Inspector	III (N)	\$36.97	\$38.45	\$40.00	\$41.60	\$43.26	B
Inspector	II (N)	\$30.50	\$31.72	\$31.00	\$32.24	\$33.53	B
Student Technician	N/A	\$30.50	\$31.72	\$31.00	\$32.24	\$33.53	B
Technical Typist	N/A	\$26.12	\$27.16	\$33.00	\$34.32	\$35.69	B

Hourly rates shall not exceed those shown above or the current NYS DOT

OVERTIME POLICY

Category A - No overtime compensation.

Category B - Overtime compensated at straight time rate.

Category C - Overtime compensated at straight time rate x 1.50.

Overtime applies to hours worked in excess of the normal working hours of 8 hours per day.

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Exhibit B
Staffing Table - Construction Inspection

C&S Engineers, Inc.
 Recreational Pathways Expansion Project
 P.I.N. 5760.85
 Town of Pendleton
 Construction Support/Construction Inspection Services

NAME	TITLE	MIDPT RATE	PRE CON	2018 OCT	NOV	DEC	2019 JAN	FEB	MAR	APR	MAY	2019 JUNE	POST CONS	TOTAL HOURS	LABOR COST	OT COST
Construction Phase				XXXX	XXXX							XXXX				
Senior Construction Supervisor	IV (N)	\$62.14	0	0	0	0	0	0	0	0	0	0	0	0	\$0	
Construction Supervisor	IV (N)	\$40.56	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0
Resident Engineer	IV (N)	\$41.00	0	170	170	0	0	0	0	0	20	40	0	400	\$16,400	\$0
Chief Inspector	III (N)	\$40.05	0	0	0	0	0	0	0	0	0	0	0	0	\$0	
Senior Inspector	III (N)	\$38.45	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0
Inspector	II (N)	\$31.72	0	0	0	0	0	0	0	0	0	0	0	0	\$0	
														LABOR	\$16,400	\$0

Exhibit C
Direct Non-Salary Cost Estimate - Construction Inspection

C&S Engineers, Inc.
 Recreational Pathways Expansion Project
 P.I.N. 5760.85
 Town of Pendleton
 Construction Support/Construction Inspection Services

1. On-Job Travel	\$100
2. Insurance	\$0
3. Expendable Supplies	\$0
4. Communication	\$0
5. Postage, Mailings	\$0
TOTAL DIRECT NON-SALARY COST	<u>\$100</u>

Exhibit C
Subcontractor Cost Estimate

C&S Engineers, Inc.
 Recreational Pathways Expansion Project
 P.I.N. 5760.85
 Town of Pendleton
 Construction Support/Construction Inspection Services

Material Testing

<u>Item</u>	<u>Unit Cost</u>	<u>No.</u>	<u>Total</u>
Soil & Concrete Testing	\$500 /day	0	\$0
Soils Lab Technician	\$500 /day	0	\$0
Cylinder Breaks	\$15 ea	0	\$0
Asphalt Technician	\$600 /day	0	\$0
Total			<u>\$0</u>

Exhibit D
Summary

C&S Engineers, Inc.
Recreational Pathways Expansion Project
P.I.N. 5760.85
Construction Inspection

Item IA, Direct Technical Salaries (Estimated, Subject to Audit)		<u>\$16,400</u>
Item IB, Direct Technical Salaries Premium Portion of Overtime (Estimated, Subject to Audit)		<u>\$0</u>
Item IIA, Direct Non-Salary Cost (Estimated, Subject to Audit)		<u>\$100</u>
Item IIB, Direct Non-Salary Cost Sub-Contractor Cost (Estimated, Subject to Audit)		<u>\$0</u>
Item III, Overhead (Estimated, Subject to Audit)	132%	<u>\$21,648</u>
Item IV, Fixed Fee (Negotiated) On Items IA, IB, IIA & III	12%	<u>\$4,566</u>
Item II, Direct Non-Salary Cost Sub-Consultant Cost (Estimated, Subject to Audit)		<u>\$0</u>
Total Estimated Cost RPR Services		<u>\$42,714</u>
Maximum Amount Payable		\$43,000